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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/624,561

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EXAMINER

HALEY, JOSEPH R

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/624,561	<b>Applicant(s)</b> LEE ET AL.	
	<b>Examiner</b> Joseph Haley	<b>Art Unit</b> 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-7, 9-11, 13-15, 17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2, 5-7, 9-11, 13-15 and 17-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5-7 9-11, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. (US 6741534) in view of Okumura (US 5444687).

In regard to claims 1 and 6, Takahashi teaches an apparatus to determine an area of an optical disc, comprising: a pickup that reads/records a signal from/to the optical disc (fig. 8 element 203); a spindle motor that revolves the optical disc (202); and a controller that counts a number of wobble syncs for one rotation of the optical disc at a current position of the pickup, compares the number of counted wobble syncs with a reference number of wobble syncs, and determines the current position of the pickup based on a comparison result, when wobble sync information read by the pickup indicates that the pickup is present in an area of the optical disk that is greater than or equal to 95 minutes (column 15 lines 28-33. In regard to the limitation "greater than or equal to 95 minutes", the apparatus of Takahashi would inherently do this everywhere on the disc), wherein the optical disc has an absolute time of 99 minutes (all discs inherently have an absolute time) and wherein the controller comprises: a memory that stores a reference number of syncs for each track of the optical disc; a counter that counts the number of syncs for each track at the current position of the pickup; and a location determination unit that compares the number of counted syncs

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with the reference number of syncs and determines the current position of the pickup based on the comparison result (column 15 lines 28-33) wherein the location determination unit determines that the pickup is present in a lead-in area when the number of counted ATIP syncs is less than the reference number of ATIP syncs and the location determination unit determines that the pickup is the lead-in area when the number of counted ATIP syncs is less than the reference number of ATIP syncs (since the lead-in area is at the smallest radius of the disc and all other areas are at greater radii, the number of syncs would be smaller in the lead-in area than all other areas. Therefore if the number of syncs in the first data area is considered the reference value, this limitation is met). However, Takahashi et al. does not teach this with ATIP information.

Okumura teaches ATIP information being a modulated on recorded wobble signal (column 9 lines 44-50).

The two are analogous art because they both deal with the same field of invention of recording onto an optical disc.

At the time of invention it would have been obvious to one of ordinary skill in the art to provide the apparatus of Takahashi et al. with the ATIP information of Okumura. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Takahashi et al. with the ATIP information of Okumura because of the reliability of ATIP information.

In regard to claims 2, 7, and 11 Takahashi et al. and Okumura teach all the limitation of claim 11 except wherein one block corresponds to 2 Kbytes.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have one block correspond to 2 Kbytes. The motivation would have been: optimization/experimentation in the course of routine engineering. Moreover, absent a showing of criticality, i.e., unobvious or unexpected results, the relationships set forth in claim 11 is considered to be within the level of ordinary skill in the art.

Additionally, the law is replete with cases in which the mere difference between the claimed invention and the prior art is some range, variable or other dimensional limitation within the claims, patentability cannot be found.

It furthermore has been held in such a situation, the applicant must show that the particular range is critical, generally by showing that the claimed range achieves unexpected results relative to the prior art range(s); see *In re Woodruff*, 919 F.2d 1575, 1578, 16 USPQ2d 1934, 1936 (Fed. Cir. 1990).

Moreover, the instant disclosure does not set forth evidence ascribing unexpected results due to the claimed dimensions; see *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338 (Fed. Cir. 1984), which held that the dimensional limitations failed to point out a feature which performed and operated any differently from the prior art.

In regard to claims 5, 9 and 13 Takahashi et al. and Okumura teach the location determination unit determines that the pickup is present in a lead-in area when the number of counted ATIP syncs is less than the reference number of ATIP syncs and the location determination unit determines that the pickup is present in an area other than a lead-in area when the number of counted ATIP syncs is greater than the

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reference number of ATIP syncs (since the lead-in area is at the smallest radius of the disc and all other areas are at greater radii, the number of syncs would be smaller in the lead-in area than all other areas. Therefore if the number of syncs in the first data area is considered the reference value, this limitation is met).

In regard to claims 10 and 18, see claims 1 and 6 rejections above.

Claims 14-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takahashi et al. and Okumura in view of Park (US 6466535).

In regard to claims 14 and 15, Takahashi et al. and Okumura teach all the elements of these claims except a computer readable medium having a computer executable instructions stored thereon.

Park teaches a computer readable medium having a computer executable instructions stored thereon (claim 29)

At the time of invention it would have been obvious to one of ordinary skill in the art to provide the apparatus of Takahashi et al. and Okumura with the computer program of Park. The rationale is as follows: At the time of invention it would have been obvious to provide the apparatus of Takahashi et al. and Okumura with the computer program of Park because computer readable media are reproducible, small and easy to manufacture.

In regard to claim 17, see claims 5, 9 and 13 rejections above.

***Response to Arguments***

Applicant's arguments filed 4/18/07 have been fully considered but they are not persuasive. Applicant argues that neither Takahashi et al. or Okumura do not teach the use of an ATIP signal. However the examiner maintains this rejection because the Okumura reference teaches that an ATIP signal is formed from a wobble signal. The provide Takahashi et al., which uses a wobble signal, with an ATIP signal would have been obvious to one of ordinary skill in the art.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Haley whose telephone number is 571-272-0574. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Korzuch can be reached on 571-272-7589. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrh

/Tan Xuan Dinh/  
Primary Examiner WG. 2627  
June 18<sup>th</sup>, 2007.